disorder, autism, Creutzfeld-Jakob disease, brain or spinal cord trauma, glaucoma, retinal ischemia, or retinal trauma.

REMARKS

Claims 1 to 10 are pending in the instant application. By this amendment, Claim 2 has been amended to Claim 2 add a specific embodiment. The amendment is supported by the specification (see, for example, page 19, line 25), and, as such, no new matter has been added by this amendment.

The Examiner has required a species election for Claims 2 and 3. Applicants respectfully traverse the species election requirements. Applicants assert that it would not be a serious burden on the Examiner to search any relevant art to the diseases recited in Claim 2 and the excitable tissue recited in Claim 3 because the search for these elements should have already been carried out in the search for relevant art related to Claim 1. Thus, a single search should, without undue burden, identify any relevant art pertaining to methods for prevention or treatment of neurodegenerative conditions recited in Claim 2 or for the protection of excitable tissue of Claim 3.

In order to be fully responsive, however, Applicants hereby provisionally elect, with traverse, to prosecute neurodegenerative disease as the species of Claims 2, and central nervous system as the species of Claim 3.

Entry of the amendment and remarks made herein into the record for the above-identified application is respectfully requested. The Examiner is invited to contact the undersigned with any questions concerning the foregoing. Although it is believed no fee is due for this amendment, please charge any required fee to Pennie & Edmonds Deposit Account No. 16-1150.

Respectfully submitted,

Date: June 13, 2002

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Enclosures

EXHIBIT A:
MARKED-UP VERSION OF THE CLAIM AMENDMENTS
(Additions Shown by Underlining)

2. (Amended) The method of Claim 1 wherein said condition is the result of age-related loss of cognitive function, cerebral palsy, neurodegenerative disease, Alzheimer's disease, Parkinson's disease, Leigh disease, AIDS dementia, memory loss, multiple sclerosis, amyotrophic lateral sclerosis, alcoholism, mood disorder, anxiety disorder, attention deficit disorder, autism, Creutzfeld-Jakob disease, brain or spinal cord trauma, glaucoma, retinal ischemia, or retinal trauma.

EXHIBIT B: PENDING CLAIMS
US. PATENT APPLICATION NO. 09/716,960
(Attorney Docket No. 10165-009-999)
(As filed on June 13, 2002)

WHAT IS CLAIMED IS:

1. A method for the prevention or treatment of a neurodegenerative condition comprising administering peripherally to said mammal an effective amount of EPO, an EPO receptor activity modulator, or an EPO-activated receptor modulator, for the protection of an excitable tissue.

2. The method of Claim 1 wherein said condition is the result of age-related loss of cognitive function, cerebral palsy, neurodegenerative disease, Alzheimer's disease, Parkinson's disease, Leigh disease, AIDS dementia, memory loss, multiple sclerosis, amyotrophic lateral sclerosis, alcoholism, mood disorder, anxiety disorder, attention deficit disorder, autism, Creutzfeld-Jakob disease, brain or spinal cord trauma, glaucoma, retinal ischemia, or retinal trauma.

3. The method of Claim 1 wherein said excitable tissue is central nervous system tissue or peripheral nervous system tissue.

4. The method of Claim 1 wherein said administration comprises oral, topical, intraluminal or by inhalation or parenteral administration.

5. The method of Claim 4 wherein said parenteral administration is intravenous, intraarterial, subcutaneous, intramuscular, intraperitoneal, submucosal or intradermal.

6. The method of Claim 1 wherein said administration is acute or chronic.

7. The method of Claim 1 wherein said EPO is nonerythropoietic.

8. The method of Claim 1 wherein said EPO is administered at a dose greater than the dose necessary to maximally stimulate erythropoiesis.

9. The method of Claim 1 wherein said EPO is erythropoietin, an erythropoietin analog, an erythropoietin mimetic, an erythropoietin fragment, a hybrid erythropoietin molecule, an erythropoietin receptor-binding molecule, an erythropoietin agonist, a renal erythropoietin, a brain erythropoietin, an oligomer thereof, a multimer thereof, a mutein thereof, a congener thereof, a naturally-occurring form thereof, a synthetic form thereof, a recombinant form thereof, or a combination thereof.

10. The method of Claim 9 wherein said EPO receptor-binding molecule is an antibody to the erythropoietin receptor.